

November 20, 1935.

Mr. H. C. Hatcher  
Statistical Engineer  
Arizona State Highway Dept.  
Phoenix, Arizona

Dear Sir:

This will acknowledge receipt of your letter of November 18, 1935, in which you seek the opinion of the Attorney General on the question therein propounded, relative to the question brought up by Mr. Frank Phelps, State Compensation Officer for the W. P. A.

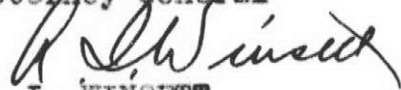
Section 1419, Revised Code of Arizona, 1928, defines the term "employee" as meaning, "Every person in the service of the state, and of a county, city, town, municipal corporation or school district, including the regular members of lawfully constituted police and fire departments of cities and towns, under appointment or contract of hire. \*\*\* "  
(Emphasis Ours)

The case of Hartford Accident & Indemnity Co. v. Wainscott, found in 19 Pac. 2nd. 328, decided by the Supreme Court of Arizona in 1933, held among other things, as follows, to-wit:

"Neither state nor any political subdivision thereof is liable for negligence of its agents when they are engaged in governmental function."

From the above references given and others relating thereto, I am of the opinion, that the insurance now carried by the Highway Department would not cover these laborers working as outlined in Mr. Phelps' letter to you, dated November 18, 1935, and I am not able to find any section of the Statute which would authorize your department to cover these laborers with insurance for the reason that they are not "employees" of the State.

Yours very truly,  
JOHN L. SULLIVAN  
Attorney General



A. I. WINSETT  
Assistant Attorney General  
Special Counsel  
Arizona Highway Department

cc Mr. T. S. O'Connell ✓  
State Engineer

cc Mr. Frank Phelps  
State Compensation  
Officer for W.P.A.

AIW:cp cc Mr. F. E. Flynn, United States Attorney